THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No. 24358 of 2002

Dated:25-07-2007

Between:-

M/s. Sri Srinivasa Theatre,
(Present Sai Prakash Theatre)
bearing electricity SC.No. 393,
Cat-II, Pedanandipadu village,
Rep., by its Proprietor,
D. Mohandas Karamchand Gandhi,
Resident of Pedanandipadu village,
Guntur district.

..Petitioner

And

A.P. Southern Power Distribution
Corporation Limited, rep., by its
Chairman-cum-Managing Director,
Vidyut Southa, Somajiguda,
Hyderabad and another.

..Respondents.

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:O R D E R:

The petitioner is a theatre. It is a registered consumer with Service Connection No. 393 of Pedanandipadu distribution at Pedanandipadu village, Guntur district. The Assistant Divisional Engineer, Operations, Ponnur, Guntur district inspected the premises of the petitioner and on the basis of the said inspection, a provisional assessment notice was issued on 07-04-2002 wherein it was mentioned that the inspection revealed that the petitioner indulged in pilferage of energy and a provisional estimation of value of energy pilfered was made at Rs.2,21,971-00. The petitioner was called upon by the said letter to deposit a sum of
Rs. 1,10,986-00 being one half of the provisionally estimated amount along with supervision charges of Rs.150-00 and re-connection charges of Rs.50-00, if the petitioner desires restoration of power supply.

Questioning the said proceedings, the petitioner filed W.P.No. 7249 of 2002 before this Court which was disposed of by an order dated 18-04-2002 directing the respondents to restore the power supply to the petitioner subject to the condition that the petitioner shall deposit a sum of Rs.30,000-00 and a further direction for completion of final assessment proceedings.

Subsequently, the Divisional Engineer, Assessments, Vijayawada, issued proceedings dated 24-07-2002 wherein it was

held that the petitioner is guilty of pilferage of electricity and the value of energy so pilfered was finally assessed at Rs.1,56,382-00. Questioning the said order, the petitioner invoked the remedy of appeal before the Superintending Engineer, Assessments, Tirupathi. The said appeal was dismissed by the latter vide his proceedings dated 10-10-2002 which is challenged in this writ petition.

Heard Sri Ganduri Nageswara Rao, learned counsel for the petitioner and Sri Prabhudas, learned counsel representing
Sri V. Ajaykumar, learned standing counsel for the respondents.

Sri Nageswara Rao, learned counsel submits that though the petitioner raised many grounds before the appellate authority, he failed to deal with any of these grounds except recording them as having been raised.

I have perused the order passed by the second respondent. The order of the second respondent shows that in page No.2 as many as eight (8) grounds raised by the petitioner were extracted. They read as under:

> *"1) The local AE has put a wire from Junction box to fuse carrier and the scene was photographed. The Asst. Engineer has called AE/DPE-II and case was filed by him.*
> *2) ADE/Operation/Ponnur has issued P.A. Notice.*
> *3) He has filed petition against the P.A. Notice. As per the direction of High Court he has paid Rs.30,000-00.*
> *4) The average consumption is 25 to 30 units per day. As the allegation is pilfering in Y phase only. Hence for 115 days 1150 units will be pilfered.*
> *5) DE/A/Vijayawada has given Final Assessment Order by calculating the consumption as 85 units per day.*
> *6) The Two projectors will not run at the same time.*
> *7) Lighting is provided half-an-hour before every show out of lights, fans. They are utilizing 4 fans only.*
> *8) Due to cable T.V. their business has full down. For four shows even 100 persons are not present.*
> *Hence requested to do justice.*
>
> *The inspection was made by a Technically authorized person. At the time of inspection it was found that the incoming Y phase*

wire was tapped and directly connected to load point. Hence the charge of pilferage was clearly established. His contention that one projector will be in use while the show is running is taken into consideration by the DE/Assessments/Vijayawada. The other contentions of the consumer are general."

The aforementioned order shows that respondent No.2 failed to apply his mind to various grounds raised by the petitioner. I am, therefore, satisfied that the second respondent had disposed of the appeal without application of mind and in a wholly mechanical manner. It is needless to emphasize that an appeal is an effective remedy for an aggrieved party and it is the bounden duty of the appellate authority to deal with all the contentions which are raised by the party. It is well settled principle of administrative law that mentioning of reasons is a part of principles of natural justice and the second respondent has indulged in grave violation of this facet of principles of natural justice by failing to record the reasons for not agreeing with the grounds raised by the petitioner.

For the aforementioned reasons, the order dated 10-10-2002 of the second respondent is set aside and the matter is remitted back to the second respondent for considering the appeal afresh and disposing of the same after recording the reasons.

It is represented that during the pendency of the writ petition, a sum of Rs.30,000-00 (Rupees Thirty thousands only) was paid for continuance of the power supply. In view of the same, the power supply to the petitioner shall not be disconnected till the disposal of the appeal by the second respondent.

The writ petition is accordingly disposed of. No costs.

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C.V.NAGARJUNA REDDY, J

Dated: 25-07-2007.
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